

GENERAL ORDER No 59
PILOT PROJECT FOR THE ELECTRONIC AVAILABILITY
OF TRANSCRIPTS OF COURT PROCEEDINGS

Upon the request of and subject to a policy adopted by the Judicial Conference of the United States (the "Conference") on September 20, 2005, the Northern District of California (the "Court") shall participate in a pilot project regarding the electronic availability of transcripts. The pilot project shall be applicable to all transcripts of proceedings in criminal cases or parts of proceedings in criminal cases ordered from an official court reporter on or after February 27, 2006, regardless of when the proceeding took place. The policy, as delineated below, establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. The personal identifiers that must be redacted are as follows: Social Security numbers; financial account numbers; names of minor children; dates of birth; and, home addresses of individuals.

1. Any transcript of a proceeding in a criminal case ordered from an official court reporter on or after February 27, 2006 in a case designated for electronic case filing, pursuant to General Order No 45, shall be electronically filed by the reporter through the Court's Case Management/Electronic Case Files (CM/ECF) system. The Clerk shall provide to all parties electronic notice of the filing and of the redaction requirements, and shall ensure that electronic access to such transcript will be limited to the Court, the Clerk of Court or his designees, the parties to the action and to users of the public access terminals in the Clerk's Office. Within five business days of the filing by the court reporter of an official transcript, a party must file a Notice of Intent to Request Redaction for any transcript in need of such redaction on the court-approved form, attached hereto as Exhibit 1 and available on the forms page of the Court's Internet site: <http://cand.uscourts.gov>. The Clerk shall provide the court reporter with a copy of the filed form. If any party fails to request redaction within five business days, the Clerk shall make the transcript electronically available to the general public without redaction through the CM/ECF system, unless the court, for good cause related to the application of Conference policy on privacy and public access to electronic case files, directs that the transcript should not be available electronically for up to a period of 60 days.

2. If a party files a Notice of Intent to Request Redaction, the transcript shall not be electronically available to the general public until the redactions are performed. During this time, a copy of the officially filed transcript will be available for review by the parties through the CM/ECF system and may also be purchased by the general public from the Clerk's Office or the court reporter. Within 21 calendar days from the filing of the transcript with the Clerk, or longer if ordered by the Court, the parties must submit directly to the court reporter a statement indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript, the statement would read: "Redact the Social Security number on page 12, line 9 to read xxx-xx-6789." A party is only responsible for reviewing and indicating the redactions in the testimony of the witnesses it called and its own statements (e.g., opening statements and closing arguments). Only the personal identifiers listed above may be automatically redacted by the court reporter. If a party wants other information redacted from the transcript, that party must move the Court for further redaction by noticed motion served on all parties and the court reporter within the 21-day period. Any order of redaction must be provided by the Clerk to the court reporter. Counsel appointed pursuant to the Criminal Justice Act may claim compensation, at the applicable rate, for the time spent reviewing the transcript and preparing the request for redaction, as well as for costs associated with obtaining a copy of the transcript.

3. If a transcript is redacted by the court reporter pursuant to this General Order, the following certification shall be used: "I certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter, as amended by the redaction of certain personal identifiers at the request of the parties [and by the Court]."

4. To minimize the need for redaction of a transcript, counsel are admonished to minimize their use of unnecessary personal identifiers at any proceeding at which a record is being taken.

5. Nothing in this order or Conference policy is intended to create a private right of action against a court reporter for any failure to redact the required information or for any errors associated with such redaction. This order and Conference policy do not affect in any way the obligation of the court reporter to file promptly with the Clerk of Court the court reporter's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to Title 28 U.S.C. § 753, nor do they affect the obligation of the Clerk to make the official transcript included in the court file available for copying by the public without further compensation to the court reporter. During this pilot program the court reporter shall not be compensated for copies of redacted transcripts, nor for unredacted transcripts filed after the redaction period has run, retrieved by any party or the general public through the CM/ECF system. The court reporter shall continue to be compensated, however, for any transcripts provided directly by the court reporter to counsel or any member of the public at the per page rates previously established by the Conference.

ADOPTED: February 15, 2006

FOR THE COURT:



Vaughn R Walker
United States District Chief Judge

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

_____)	
)	
Plaintiff(s),)	Case No. _____
)	
vs.)	
)	
_____)	
)	
Defendant(s).)	
)	
_____)	

NOTICE OF INTENT TO REQUEST REDACTION OF TRANSCRIPT

Notice is hereby given that a statement of redaction will be submitted to the court reporter within 21 days from the filing of the transcript with the Clerk of Court. The proceeding occurred on _____ and was reported by _____, the official court reporter.

Attorney for (Plaintiff or Defendant)
Address: _____

Date: _____